

deeds maintains a tract index, the satisfaction shall also be indexed under the legal description of the real estate against which the lien was claimed.

(c) A broker is liable to a person requesting a lien satisfaction under this subsection for a sum equal to 50% of the sum claimed in the lien claim, if the broker does not provide the requested satisfaction within 30 days of the later of the following:

1. The date on which the request is received by the broker.
2. If the satisfaction is required under par. (a) 1., the date on which the broker receives payment in full of the amount specified in the notice of lien.
3. If the satisfaction is required under par. (a) 2., the date on which the broker receives evidence that the requirements under par. (a) 2. have been met.
4. If the satisfaction is required under par. (a) 3., the date on which the broker receives the agreement to binding arbitration.
5. If the satisfaction is required under par. (a) 3., the date on which the broker receives evidence of payment of the arbitrator's fee.

(9) **EXTINGUISHMENT OF LIEN.** A lien under this section is extinguished if an action to enforce the lien is not commenced within 2 years after the lien is perfected under sub. (4) (a).

History: 1997 a. 309; 2001 a. 103.

SUBCHAPTER III

MINING LIENS, ETC.

779.35 Mining liens. Any person who performs any labor or services for any employer engaged in or organized for the purpose of mining, smelting or manufacturing ores or minerals, and any bona fide holder of any draft, time check or order for the payment of money due for that labor, issued or drawn by the employer, shall have a lien for the wages due in the amount due on the draft, check or order. The lien shall be upon all of the personal property connected with the mining, smelting or manufacturing industry belonging to the employer, including the ores or products of the mine or manufactory, and, subject to s. 779.36 (2), all of the employer's interest in any real estate connected with the mining, smelting or manufacturing business. The lien under this section shall take precedence of all other debts, judgments, decrees, liens or mortgages against the employer, except liens accruing for taxes, fines or penalties and liens under ss. 292.31 (8) (i) and 292.81, subject to the exceptions and limitations contained in this subchapter.

History: 1979 c. 32 s. 57; 1979 c. 176; Stats. 1979 s. 779.35; 1993 a. 453; 1995 a. 227; 1997 a. 27, 254.

779.36 Extent of lien; filing claim. (1) Subject to sub. (2), the lien under s. 779.35 extends only to the amount of the interest in the real property held by the employer. In case of the employer's death or insolvency, or of the sale or transfer of the employer's interest in the works, mines, manufactories or business, all moneys that may be due for wages to any miner, mechanic or laborer shall be a lien upon all of the property and shall be preferred and first paid out of the proceeds of the sale.

(2) No claim for wages shall be a lien under s. 779.35 upon any real estate unless the claim is filed in the office of the clerk of the circuit court of the county in which the real estate, upon which a lien is claimed, is situated. The claim shall be filed within 60 days after the draft, time check or order upon which the claim is founded is due and payable, in the manner that claims for mechanics' liens are required to be filed.

History: 1979 c. 32 s. 57; 1979 c. 176; Stats. 1979 s. 779.36; 1997 a. 254.

779.37 Satisfaction of lien. If an attachment, execution or similar writ shall be issued against any employer engaged in a business described in s. 779.35, any miner, laborer, mechanic or other person who is entitled to claim a lien under s. 779.35 may give notice in writing of the lien claim and the amount of the lien

claimed, verified by affidavit, to the officer holding the writ at any time before the actual sale of the property that is subject to the writ. The officer shall retain out of the sale proceeds a sufficient sum to satisfy all lien claims, which sum shall be held by the officer, subject to the order of the circuit court.

History: 1979 c. 32 ss. 57, 92 (9); Stats. 1979 s. 779.37; 1993 a. 486; 1997 a. 254.

779.38 Effect of mortgage. No mortgage or other instrument by which a lien is created shall operate to impair or postpone the lien and preference given and secured to the wages and moneys mentioned in s. 779.35; provided, that no lien of any mortgage or judgment entered before such labor is performed shall be affected or impaired by such lien.

History: 1979 c. 32 ss. 57, 92 (9); Stats. 1979 s. 779.38.

779.39 Foreclosure of lien. The liens and preferences given by ss. 779.35 to 779.38 may be foreclosed in the same manner as mechanics' liens, and all provisions of these statutes relating to the foreclosure thereof shall apply to the foreclosure of the liens so given, so far as such provisions are applicable.

History: 1979 c. 32 ss. 57, 92 (9); Stats. 1979 s. 779.39.

779.40 Liens for labor in quarry. (1) Any person who shall perform any labor for an employer not the owner of the real estate, engaged in quarrying, crushing, cutting or otherwise preparing stone for use or for manufacturing lime and any bona fide holder of any draft, time check or order for the payment of money due for any such labor issued by such employer, shall have a lien for wages owed and for the amount due on such draft, check or order upon the personal property connected with such industry owned by such employer, including interest in the product of such quarry or factory and machinery and other personal property used in the operation of such quarry or factory, and all interest in any lease of the real estate connected with such business, which lien shall take precedence of all other debts, judgments, decrees, liens or mortgages against such employer, except taxes, fines or penalties and mortgages or judgments recorded or entered before such labor is performed and except liens under ss. 292.31 (8) (i) and 292.81.

(2) The wages shall become a lien upon the property and material mentioned in this section upon filing with the clerk of the circuit court of the county in which the labor is performed within 60 days after the first of the services shall be rendered, a petition signed by the claimant and verified in behalf of or by the claimant under oath, setting forth the nature of the debt for which the lien is claimed, the amount claimed, a description of the property upon which the lien is claimed and that the petitioner claims a lien thereon pursuant to law. The clerk shall receive the fee prescribed in s. 814.61 (5) for filing the petition.

(3) The provisions of ss. 779.20 and 779.21 shall govern the foreclosure of the liens here given so far as such provisions are applicable.

History: 1979 c. 32 ss. 57, 92 (9); 1979 c. 176; Stats. 1979 s. 779.40; 1981 c. 317; 1993 a. 453; 1995 a. 225, 227; 1997 a. 27, 35, 252.

SUBCHAPTER IV

MECHANIC'S LIENS, ETC.

779.41 Mechanic's liens. (1) Every mechanic and every keeper of a garage or shop, and every employer of a mechanic who transports, makes, alters, repairs or does any work on personal property at the request of the owner or legal possessor of the personal property, has a lien on the personal property for the just and reasonable charges therefor, including any parts, accessories, materials or supplies furnished in connection therewith and may retain possession of the personal property until the charges are paid. The lien provided by this section is subject to the lien of any security interest in the property which is perfected as provided by law prior to the commencement of the work for which a lien is claimed unless the work was done with the express consent of the holder of the security interest, but only for charges in excess of \$1,500 except if the personal property is:

779.41 LIENS

(a) A trailer or semitrailer designed for use with a road tractor, for charges in excess of \$4,500.

(b) Road machinery, including mobile cranes and trench hoes, farm tractors, machines of husbandry, or off-highway construction vehicles and equipment, for charges in excess of \$7,500.

(c) A motor vehicle not included under par. (a) or (b) with a manufacturer's gross weight rating, including, with respect to road tractors, a manufacturer's gross weight rating for the combined carrying capacity of the tractor and trailer, of:

1. More than 10,000 and less than 20,000 pounds, for charges in excess of \$3,000.

2. 20,000 pounds or more but less than 40,000 pounds, for charges in excess of \$6,000.

3. 40,000 pounds or more but less than 60,000 pounds, for charges in excess of \$9,000.

4. 60,000 pounds or more, for charges in excess of \$12,000.

(1m) Annually, on January 1, the department of agriculture, trade and consumer protection shall adjust the dollar amounts identified under sub. (1) (intro.), (a), (b) and (c) 1. to 4. by the annual change in the consumer price index, as determined under s. 16.004 (8) (e) 1., and publish the adjusted figures.

NOTE: The department will publish the adjusted mechanic's lien limits in the December 31st issue of the Wisconsin Administrative Register.

(1s) (a) Subsection (1), as it applies to a mechanic, mechanic's employer or keeper of a garage or shop, applies to a boat mechanic, boat mechanic's employer, person who tows a boat or keeper of a marina or shop at which boats are repaired, except as follows:

1. The lien provided by this subsection is subject to the lien of any security interest in the boat that is perfected as provided by law prior to the commencement of the work for which the lien is claimed unless the work was done with the express consent of the holder of the security interest, but only for charges in excess of \$1,200.

2. Within 30 days after the charges for the work become past due, the person claiming a lien under this subsection shall send written notice to the owner of the boat and the holder of the senior lien on the boat informing them that they must take steps to obtain the release of the boat. To reclaim the boat, the owner or the senior lienholder must pay all charges that have a priority over other security interests under this subsection and all reasonable storage charges on the boat that have accrued after 60 days from the date that the charges for the work became past due. A reasonable effort to notify the owner and the holder of the senior lien satisfies the notice requirement under this subdivision. Failure to make a reasonable effort to notify the owner and the senior lienholder renders void any lien to which the person may be entitled under this subsection.

(b) A lien under this subsection is in addition to any remedy available under ch. 780.

(2) Every keeper of a garage or repair shop who alters, repairs, or does any work on any detached accessory, fitting, or part of an automobile, a truck, a motorcycle, a moped, a motor bicycle or similar motor vehicle, a bicycle, or an electric personal assistive mobility device, at the request of the owner or legal possessor thereof, shall have a lien upon and may retain possession of any such accessory, fitting, or part until the charges for such alteration, repairing, or other work have been paid. If the detached article becomes attached to such motor vehicle, bicycle, or electric personal assistive mobility device while in the possession of the keeper, the keeper has a lien on the motor vehicle, bicycle, or electric personal assistive mobility device under sub. (1).

(3) Insofar as the possessory right and lien of the person performing labor and services under this section are released, relinquished and lost by the removal of property upon which a lien has accrued, it is prima facie evidence of intent to defraud if upon the removal of such property, the person removing the property issues any check or other order for the payment of money in payment of

the indebtedness secured by the lien, and thereafter stops payment on the check or order. This subsection does not apply when a check is stopped because the product is improperly repaired or improperly serviced and the product has been returned to the person performing the labor or services for proper repair or service.

History: 1971 c. 333; 1979 c. 32 s. 57; 1979 c. 176, 252; Stats. 1979 s. 779.41; 1983 a. 243; 1987 a. 399; 1995 a. 107, 331; 1997 a. 35; 2001 a. 90.

Cross-reference: See s. 779.48 (2) for method of enforcing a mechanics' lien.

The lien of a garage keeper who did not obtain the consent of the lienholder to make the repairs was limited to the statutory amount, and the garage keeper could not claim more under a theory of unjust enrichment. *Industrial Credit Co. v. Inland G. M. Diesel*, 51 Wis. 2d 520, 187 N.W.2d 157 (1971).

Upon a conditional release of personal property by the lienor, the lien is enforceable against all parties except a bona fide purchaser for value or a subsequent levying creditor with no notice of the lien. *M&I Western State Bank v. Wilson*, 172 Wis. 2d 357, 493 N.W.2d 387 (Ct. App. 1992).

The legislature did not create a crime or invoke criminal penalties in enacting sub. (3), which renders stopping payment on a check used to pay for certain repairs to personal property "prima facie evidence of intent to defraud." This section could operate to establish prima facie evidence of only one of the elements of the crime of theft defined in s. 943.20 (1) (d). 63 Atty. Gen. 81.

779.415 Liens on motor vehicles for towing and storage.

(1) (a) Every motor carrier holding a permit to perform vehicle towing services, every licensed motor vehicle salvage dealer and every licensed motor vehicle dealer who performs vehicle towing services or stores a motor vehicle, when such towing or storage is performed at the direction of a traffic officer or the owner of the vehicle, shall, if the vehicle is not claimed as provided herein, have a lien on the motor vehicle for reasonable towing and storage charges, and may retain possession of the vehicle until such charges are paid. If the vehicle is subject to a lien perfected under ch. 342, a towing lien shall have priority only to the extent of \$75 for a motor vehicle having a gross weight of 20,000 pounds or less and \$250 for a motor vehicle having a gross weight of more than 20,000 pounds and a storage lien shall have priority only to the extent of \$7 per day but for a total amount of not more than \$420 for a motor vehicle having a gross weight of 20,000 pounds or less and \$20 per day but for a total amount of not more than \$1,200 for a motor vehicle having a gross weight of more than 20,000 pounds. If the value of the vehicle exceeds \$500, the lien may be enforced under s. 779.48 (2). If the value of the vehicle does not exceed \$500, the lien may be enforced by sale or junking substantially as provided in sub. (2).

(b) If the vehicle is towed or stored under the directions of a traffic officer, any personal property within the vehicle shall be released to the owner of the vehicle as provided under s. 349.13 (5) (b) 2. No additional charge may be assessed against the owner for the removal or release of the personal property within the vehicle.

(1m) Within 30 days after taking possession of a motor vehicle, every motor carrier, licensed motor vehicle salvage dealer and licensed motor vehicle dealer under sub. (1) shall send written notice to the owner of the vehicle and the holder of the senior lien on the vehicle informing them that they must take steps to obtain the release of the motor vehicle. To reclaim the vehicle, the owner or the senior lienholder must pay all towing and storage charges that have a priority under sub. (1) (a) and all reasonable storage charges that have accrued after 60 days from the date on which possession of the motor vehicle was taken. A reasonable effort to so notify the owner and the holder of the senior lien satisfies the notice requirement of this subsection. Failure to make a reasonable effort to so notify the owner and the senior lienholder renders void any lien to which the motor carrier, licensed motor vehicle salvage dealer or licensed motor vehicle dealer would otherwise be entitled under sub. (1).

(2) At least 20 days prior to sale or junking, notice thereof shall be given by registered mail to the person shown to be the owner of the vehicle in the records of the department of transportation and to any person who has a lien on such vehicle perfected under ch. 342, stating that unless the vehicle is claimed by the owner or the owner's agent within said 20 days the vehicle will be exposed for sale or junked, as the case may be. If the proceeds of

the sale exceed the charges, the balance shall be paid to the holder of the senior lien perfected under ch. 342, and if none, then to the owner as shown in the records of the department of transportation.

History: 1977 c. 29 s. 1654 (7) (b); 1977 c. 273; 1979 c. 32 ss. 57, 92 (9); Stats. 1979 s. 779.415; 1983 a. 213, 445; 1989 a. 320; 1995 a. 62.

779.42 Obtaining mechanic's services by misrepresentation of interest in personal property. Any person who, for the purpose of inducing any mechanic, or keeper of a garage or shop, or the employer of a mechanic to transport, make, alter, repair or do any work on any personal property, makes any misrepresentation as to the nature or extent of the person's interest in said property or as to any lien upon said property shall be fined not more than \$200 or imprisoned not more than 6 months or both.

History: 1979 c. 32 s. 57; 1979 c. 176; Stats. 1979 s. 779.42.

779.43 Liens of keepers of hotels, livery stables, garages, marinas and pastures. (1) As used in this section:

(a) "Boarding house" includes a house or other building where regular meals are generally furnished or served to 3 or more persons at a stipulated amount for definite periods of one month or less.

(b) "Lodging house" includes any house or other building where rooms or lodgings are generally rented to 3 or more persons received or lodged for hire, or any part of a house or other building that is let for sleep at stipulated rentals for definite periods of one month or less, whether any or all of the rooms or lodgings are let or used for light housekeeping or not, except that duplex flats or apartment houses actually divided into residential units shall not be considered lodging houses.

(c) "Marina" includes any property used for the storage, repair or mooring of boats, whether on land or in water.

(2) (a) Except as provided in par. (b), every keeper of an inn, hotel, boarding house or lodging house shall have a lien upon and may retain possession of all baggage and other effects brought into the place by any guest, boarder or lodger, whether the baggage and effects are the property of or under the control of the guest, boarder or lodger, or are the property of any other person liable for the board and lodging for the proper charges owing the keeper for board, lodging and other accommodation furnished to or for a guest, boarder or lodger, and for all moneys loaned, not exceeding \$50, and for extras furnished at the written request signed by the guest, boarder or lodger, until the charges are paid. Any execution or attachment levied upon the baggage or effects shall be subject to the lien given by this section and the costs of satisfying it.

(b) The lien given by this section does not cover charges for alcohol beverages nor the papers of any soldier, sailor or marine that are derived from and evidence of military or naval service or adjusted compensation, compensation, pension, citation medal or badge.

(3) Subject to sub. (4), every keeper of a garage, marina, livery or boarding stable, and every person pasturing or keeping any carriages, automobiles, boats, harness or animals, and every person or corporation, municipal or private, owning any airport, hangar or aircraft service station and leasing hangar space for aircraft, shall have a lien thereon and may retain the possession thereof for the amount due for the keep, support, storage or repair and care thereof until paid. But no garage or marina keeper shall exercise the lien upon any automobile or boat unless the keeper gives notice of the charges for storing automobiles or boats on a signed service order or by posting in some conspicuous place in the garage or marina a card that is easily readable at a distance of 15 feet.

(4) (a) The lien of a marina keeper under this section is subject to the lien of any security interest in the boat that is perfected as provided by law prior to the commencement of the services for which the lien is claimed unless the services were done with the express consent of the holder of the security interest, but only for charges in excess of \$1,200.

(b) Within 30 days after the charges for the services of a marina keeper become past due, the marina keeper shall send written notice to the owner of the boat and the holder of the senior lien on the boat informing them that they must take steps to obtain the release of the boat. To reclaim the boat, the owner or the senior lienholder must pay all charges that have a priority over other security interests under par. (a) and all reasonable storage charges on the boat that have accrued after 60 days from the date that the charges for the services became past due. A reasonable effort to notify the owner and the holder of the senior lien satisfies the notice requirement under this paragraph. Failure to make a reasonable effort to notify the owner and the senior lienholder renders void any lien to which the marina keeper may be entitled under this section.

(c) A lien of a marina keeper under this section is in addition to any remedy available under ch. 780.

History: 1979 c. 32 s. 57; 1979 c. 176; Stats. 1979 s. 779.43; 1981 c. 79 s. 17; 1995 a. 331; 1997 a. 254.

No garage keeper's lien is imposed under sub. (3) when storage occurs without an owner's consent. *Bob Ryan Leasing v. Sampair*, 125 Wis. 2d 266, 371 N.W.2d 405 (Ct. App. 1985).

779.44 Liens of consignees. Every consignee of property shall have a lien thereon for any money advanced or negotiable security given by the consignee to or for the use of the person in whose name the shipment of such property is made, and for any money or negotiable security received by such person for personal use unless the consignee shall, before advancing any such money, or giving such security, or before it is so received for personal use, have notice that such person is not the actual owner thereof.

History: 1979 c. 32 s. 57; 1979 c. 176; Stats. 1979 s. 779.44.

A consignment need not be for the purpose of sale. A tender of the amount due, must be made and is not waived merely by an excessive demand for payment made in good faith and in ignorance of the scope of the lien. *Power Transmission Equipment Corp. v. Beloit Corp.* 55 Wis. 2d 540, 201 N.W.2d 13 (1972).

779.45 Liens of factors, brokers, etc. Every factor, broker or other agent entrusted by the owner with the possession of any bill of lading, customs permit, warehouse receipt or other evidence of the title to personal property, or with the possession of personal property for the purpose of sale or as security for any advances made or liability incurred by the factor, broker or agent in reference to such property, shall have a lien upon such personal property for all such advances, liability incurred or commissions or other moneys due for services as such factor, broker or agent, and may retain the possession of such property until such advances, commissions or moneys are paid or such liability is discharged.

History: 1979 c. 32 s. 57; 1979 c. 176; Stats. 1979 s. 779.45.

779.46 Jeweler's lien. Every jeweler, watchmaker or silversmith who shall do any work on any article at the request of the owner or legal possessor of such property, shall have a lien upon and may retain the possession of such article until the charges for alteration, repair or other work have been paid.

History: 1979 c. 32 s. 57; Stats. 1979 s. 779.46.

779.47 Plastics fabricator's lien. (1) DEFINITIONS. In this section:

(a) "Plastics fabricator" means a person who uses toolings to fabricate or manufacture plastic products or a person who makes or provides toolings for use in the fabrication or manufacture of plastic products.

(b) "Toolings" includes masters, models, patterns, tools, dies, molds, jigs, fixtures, forms and designs that are used in the fabrication or manufacture of plastic products.

(2) LIEN. Subject to sub. (2m), a plastics fabricator shall have a lien on all toolings and plastic products in the plastics fabricator's possession that belong to the customer for the amount owed the plastics fabricator by the customer for toolings or for plastics fabrication processing or work. The plastics fabricator may retain

779.47 LIENS

possession of the toolings until the amount owed is paid or satisfied.

(2m) ATTACHMENT AND PERFECTION. A lien under sub. (2) attaches and is perfected 30 days after the date on which plastic products are delivered to the customer unless the customer notifies the plastics fabricator within that time period that the products failed to meet an approved quality control plan, the products deviated from approved samples or the products deviated from previously accepted parts and the customer returns the products within 60 days after the date on which the products are delivered to the customer.

(3) PRIORITY. A lien under sub. (2) does not take priority over an existing perfected security interest.

History: 1993 a. 328.

779.48 Enforcement. (1) Every person given a lien by ss. 779.43 to 779.46, except s. 779.43 (3), or as bailee for hire, carrier, warehouse keeper or pawnee or otherwise, by common law, may, in case the claim remain unpaid for 3 months and the value of the property affected thereby does not exceed \$100, sell such property at public auction and apply the proceeds of such sale to the claim and the expenses of such sale. Notice in writing, of the time and place of the sale and of the amount claimed to be due shall be given to the owner of such property personally or by leaving the same at the owner's place of abode, if a resident of this state, and if not, by publication thereof, in the county in which such lien accrues, as a class 3 notice, under ch. 985. If such property exceeds in value \$100, then such lien may be enforced against the same by action.

(2) Every person given a lien by ss. 779.41 and 779.43 (3) may in case the claim remains unpaid for 2 months after the debt is incurred, and a person given a lien under s. 779.47 (2) may if the claim remains unpaid 90 days after the lien is perfected, enforce such lien by sale of the property substantially in conformity with subch. VI of ch. 409 and the lien claimant shall have the rights and duties of a secured party thereunder. When such sections are applied to the enforcement of such lien the word debtor or equivalent when used therein shall be deemed to refer to the owner of the property and any other person having an interest shown by instrument filed as required by law or shown in the records of the department of transportation, and the word indebtedness or equivalent shall include all claims upon which such lien is based.

History: 1977 c. 29 s. 1654 (7) (b); 1979 c. 32 ss. 57, 92 (9); 1979 c. 176; Stats. 1979 s. 779.48; 1983 a. 500 s. 43; 1993 a. 328; 2001 a. 10; 2005 a. 336.

Requirements of a common law lien are discussed. Even though some of the goods are returned, the lien may exist on the balance retained for the whole amount due. *Moynihan Associates, Inc. v. Hanisch*, 56 Wis. 2d 185, 201 N.W.2d 534 (1972).

779.485 Special tools. (1) DEFINITIONS. In this section:

(a) "Customer" means a person who does any of the following:

1. Causes a special tool builder to design, develop, manufacture, assemble, or otherwise make a special tool.
2. Orders a product from a manufacturer that is produced with a special tool or causes a manufacturer to use a special tool.

(b) "Intellectual property" means a design, program, or process.

(c) "Manufacturer" means a person who uses a special tool as part of the person's manufacturing process.

(d) "Manufacturer's lien" means a lien described in sub. (3) (b).

(e) "Special tool" means a tool, die, jig, gauge, gauging fixture, metal casting, pattern, forging, machinery, ferrous or nonferrous machined part, or intellectual property used for the purpose of designing, developing, manufacturing, assembling, or fabricating a metal part.

(f) "Special tool builder" means a person who designs, develops, manufactures, fabricates, or assembles a special tool.

(g) "Special tool builder's lien" means a lien described in sub. (2) (a) 1.

(2) SPECIAL TOOL BUILDERS. (a) Lien. 1. A special tool builder who does all of the following has a lien on a special tool in the

amount that a customer or manufacturer owes the special tool builder for designing, developing, manufacturing, fabricating, assembling, repairing, or modifying the special tool:

a. Permanently records on the special tool the special tool builder's name, street address, city, and state, or other traceable identification.

b. Files a financing statement for the special tool under subch. V of ch. 409.

2. A special tool builder's lien attaches and is perfected on the date that both of the requirements specified in subd. 1. a. and b. are satisfied.

3. A special tool builder retains a special tool builder's lien even if the special tool builder does not have physical possession of the special tool for which the lien is claimed.

4. A special tool builder's lien remains valid until the first of any of the following occurs:

a. The customer or manufacturer pays the special tool builder the amount for which the special tool builder's lien is claimed.

b. The financing statement is terminated.

(b) Priority. An attached and perfected special tool builder's lien has priority over any other lien that subsequently attaches to the special tool.

(c) Enforcement. 1. A special tool builder may not enforce a special tool builder's lien unless the builder provides notice in writing to the customer, manufacturer, or both that owes the builder the amount for which the special tool builder's lien is claimed. The notice shall be delivered personally or by registered mail, return receipt requested, to the last-known address of the customer, manufacturer, or both and shall state that the builder is claiming a lien for the amount that customer, manufacturer, or both owes the special tool builder for designing, developing, manufacturing, fabricating, assembling, repairing, or modifying the special tool and that the builder demands payment for the amount. Except as provided in subd. 2., if the special tool builder is not paid the amount claimed within 90 days after either the customer or, if applicable, the manufacturer receives the notice, whichever is later, the builder has the right to possession of the special tool and the builder may enforce the right by any available judicial procedure or by taking possession of the special tool without judicial process, but only if the taking is done without breach of the peace.

2. If the postal service returns any notice required under subd. 1. as undeliverable, the special tool builder may enforce the right to possession under subd. 1. no sooner than 90 days after the special tool builder publishes, under ch. 985, a class 1 notice of the intended enforcement of the right to possession in a newspaper of general circulation in the place where the special tool is last known to be located and in the place of the last-known address of any person for which the postal service returns a notice as undeliverable.

(3) MANUFACTURERS. (a) Transfer of interest. 1. Unless otherwise agreed by a customer and manufacturer in writing, all rights, title, and interest of a customer in a special tool that a manufacturer has used to produce parts ordered by the customer or that the customer has caused a manufacturer to use are transferred to the manufacturer for the purpose of destroying the special tool, if all of the following are satisfied:

a. The special tool has been in the possession of the manufacturer during the one-year period beginning after the manufacturer's last use of the special tool.

b. The customer has not claimed possession of the special tool before the expiration of the one-year period specified in subd. 1. a.

c. After the expiration of the one-year period specified in subd. 1. a., the manufacturer provides written notice by registered mail, return receipt requested, to an address designated in writing by the customer or, if the customer has made no such designation, to the customer's last-known address, that indicates that the manufacturer intends to terminate the customer's rights, title, and

interest in the special tool and transfer those rights, title, and interest to the manufacturer as provided in this paragraph.

d. The customer has not, within 120 days after the date that the manufacturer receives the return receipt of notice specified in subd. 1. c. or within 120 days after the manufacturer provides notice if no return receipt is received within that period, claimed possession of the special tool or agreed to other arrangements with the manufacturer for storage of the special tool.

2. The one-year period specified in subd. 1. a. applies retroactively to special tools last used before April 29, 2006.

3. This paragraph does not apply to a special tool that is titled to, and in the possession of, a manufacturer. This paragraph may not be construed to grant a customer any right, title, or interest in a special tool.

(b) *Lien.* A manufacturer has a lien on any special tool in the manufacturers' possession belonging to a customer for the amount due the manufacturer from the customer for work performed with the special tool or for making or improving the special tool. A manufacturer may retain possession of the special tool until the amount due is paid.

(c) *Enforcement.* 1. A manufacturer may not enforce a manufacturers' lien unless the manufacturer provides notice in writing to the customer, delivered personally or by registered mail to the last-known address of the customer, that states that the manufacturer is claiming a lien for the amount due described in par. (b). Except as provided in subd. 2., if the manufacturer is not paid the amount due within 90 days after the customer receives the notice, and if the manufacturer is still in possession of the special tool, the manufacturer may sell the special tool at public auction under par. (d).

2. If the postal service returns a notice under subd. 1. as undeliverable and if the manufacturer is still in possession of the special tool, the manufacturer may sell the special tool at public auction under par. (d) no sooner than 90 days after the special tool builder publishes, under ch. 985, a class 1 notice of the sale in a newspaper of general circulation in the place of the last-known address of the customer.

(d) *Public auction.* 1. A manufacturer may not sell a special tool at public auction unless the manufacturer has provided, by registered mail, return receipt requested, the customer and any other person, including a special tool builder, who has perfected by filing a security interest in the special tool, a notice that includes all of the following:

- a. A statement that the manufacturer intends to sell the special tool no sooner than 60 days after receipt of the notice.
- b. A description of the special tool.
- c. The time and place of the public auction.
- d. An itemized statement of the amount for which the manufacturer's lien is claimed.
- e. A statement that any product produced by the manufacturer with the special tool complies with the quality and quantity ordered by the customer.

2. Except as provided in subd. 3., a manufacturer may sell a special tool at public auction no sooner than 60 days after the customer's or other person's receipt of the notice specified in subd. 1., whichever is later, except that, if the postal service returns any of the notices as undeliverable, the manufacturer may sell the special tool no sooner than 60 days after the manufacturer publishes, under ch. 985, a class 1 notice of the intended sale, that includes the information specified in subd. 1., in a newspaper of general circulation in the place where the manufacturer is holding the special tool for sale, in the place of the customer's last-known address, and in the place of the other person's last-known address.

3. If a customer disagrees with the statement specified in subd. 1. e. that is included in a notice, the customer may notify the manufacturer of the disagreement in writing by registered mail, return receipt requested. If a manufacturer receives a notification under this subdivision before the date of the public auction, the

manufacturer may not sell the special tool at public auction until after the disagreement is resolved.

(e) *Proceeds.* The proceeds of a sale of a special tool under par. (d) shall, if applicable, first be paid to a prior lienholder who has perfected a lien in an amount sufficient to extinguish that lien. Any excess proceeds shall next be paid to the manufacturer in an amount sufficient to extinguish the manufacturer's lien. Any remainder shall be paid to the customer.

History: 2005 a. 336.

SUBCHAPTER V.

BREEDING ANIMAL, THRESHING LIENS, ETC.

779.49 Lien of owner of breeding animal or methods.

(1) (a) Except as provided in par. (b), every owner of a stallion, jackass or bull, or semen from a stallion, jackass or bull, kept and used for breeding purposes shall have a lien upon any dam served and upon any offspring gotten by the animal, or by means of artificial insemination for the sum stipulated to be paid for the service of the dam. The owner of the stallion, jackass or bull, used to service, or semen used to artificially inseminate, the dam may seize and take possession of the dam and offspring or either without process at any time before the offspring is one year old, in case the price agreed upon for the service remains unpaid, and sell the offspring at public auction. The sale of the offspring shall be upon 10 days' notice, to be posted in at least 3 public places in the town where the service was rendered. The proceeds of the sale shall be applied to the payment of the amount due for the service and the expenses of the seizure and sale. The residue, if any, shall be returned to the party entitled to it.

(b) No lien given under this subsection shall be effective for any purpose against an innocent purchaser or mortgagee of the offspring or the dam of the offspring for value unless the owner having a claim for the service records with the register of deeds of the county where the owner of the dam served resides a statement showing that the service has been rendered and the amount due for the service.

(2) Any person who sells, disposes of or gives a mortgage upon any dam which to the person's knowledge has been served by a stallion, jackass or bull, or artificially inseminated with semen owned by another, the fee for which has not been paid, and who has not given written information to the purchaser or mortgagee of the fact of the service or artificial insemination, shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$10 or imprisoned for not more than 60 days.

History: 1979 c. 32 s. 57; 1979 c. 176; Stats. 1979 s. 779.49; 1993 a. 301; 1997 a. 254.

779.50 Lien for threshing, husking, baling; enforcement.

(1) (a) Every person who threshes grain, cuts, shreds, husks or shells corn or bales hay or straw by machine for another shall have a lien upon the grain, corn, hay or straw for the value of the services to the extent that the person contracting for the services has an interest in the grain, corn, hay or straw, from the date of the commencement of the service.

(b) The lien given under par. (a) may be foreclosed at any time within 6 months from the date of the last charge for the services described in par. (a) as long as the charges remain unpaid. For the purpose of foreclosing the lien, the lien claimant may take possession of so much of the grain, corn, hay or straw as shall be necessary to pay for the services and the expenses of enforcing the lien, for the services, and sell the grain, corn, hay or straw at public auction. The auction shall be held upon notice of not less than 10 nor more than 15 days from the date of the seizure of the grain, corn, hay or straw under this paragraph.

(2) Notice of such sale shall be given personally and by posting in at least three public places in the town where the debtor resides, and also in the town where such sale is to be made; and if such debtor is a nonresident of the state, in the town where such